



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 3764-16
JAN 03 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 August 2016. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

Your application contends that in 1997 during a MEU [Marine Expeditionary Unit] deployment work up, you applied for a school at Marine Corps School you had been training for and it was denied. You also claim that around the same time you were arguing with your girlfriend at which point you lost your temper and punched a door at her house. You further claim that "Based on losing my temper I voluntarily requested Level I substance abuse counseling. I was referred to Level 3 substance abuse counseling which I did not believe I needed." You also claim that you consulted with base legal and were told you did not have to submit to the Level III counseling, and that at no point there were you told that refusing the counseling would be grounds for separation with an OTH [Under Other Than Honorable Conditions].

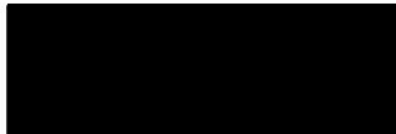
The Board found that you enlisted in the United States Marine Corps and began a period of active duty on 14 December 1992. Although the Board lacked your entire service record book (SRB), it appears from available records that you served for a period of about four years two months and twenty-three days without any disciplinary incident. During the period from 1 March 1997 to 18 April 1997 [period taken from your FITNESS REPORT (1610) of that time period], you were reduced in grade due to "professional incompetence" and as a result of an administrative reduction board. The report states that this was based on your conduct while attached to the [REDACTED] in which you refused to train and refused Level III treatment. The Board found that although as you claim you self-referred yourself to Level I treatment, it is ultimately up to the Substance Abuse Counselor to determine the level of treatment based on his

or her determination of the results of their evaluation of you. The Board determined that per MCO 5300.17, Marine Corps Substance Abuse Program, "a Marine who refuses, fails to participate, or does not successfully complete treatment or aftercare and is determined a treatment failure by a MO [Medical Officer], will be returned to his command and processed for separation per reference (d) [SECNAVINST 5300.28D]." Subsequently, your commanding officer processed you for an administrative separation and you were discharged on 21 July 1997 with an Under Other Than Honorable Conditions discharge, the narrative reason for separation being minor disciplinary infractions (board required but waived).

The Board, in its review of your entire available record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge. However, the Board determined that these factors were not sufficient enough to warrant relief in your case because of your professional incompetence, which led to your discharge. Furthermore, you were offered the opportunity to defend yourself and/or your actions, but you waived your procedural rights to an administrative board. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director